



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

www.howardcountymd.gov

FAX 410-313-3467

TDD 410-313-2323

September 20, 2012

TECHNICAL STAFF REPORT

*Petition Accepted on August 30, 2012
Planning Board Meeting of October 4, 2012
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA-142 – Bith Energy, Inc.

Request: To amend Section 131.N of the Zoning Regulations to add Commercial Solar Facilities as a new Conditional Use category permitted in RC (Rural Conservation) or RR (Rural Residential) Zoning Districts, and to amend Section 103 to add associated definitions.

Department of Planning and Zoning Recommendation:

APPROVAL WITH REVISIONS

I. DESCRIPTION OF PROPOSAL

- **The Petitioner proposes two amendments to the Zoning Regulations. The principal proposal would amend Section 131.N of the Zoning Regulations, which lists the various Conditional Use categories and sets the criteria for those conditional uses.**

This amendment would add Commercial Solar Facilities as a new category and establish the specific criteria for such a use. The second amendment is to Section 103: Definitions and would add new definitions for the terms “Commercial Solar Facility” and for “Solar Collector”.

The Commercial Solar Facilities use could be requested on any property within the County which is zoned RC or RR, is a minimum of 10 acres in size, and is not in the Agricultural Land Preservation Program or encumbered by any Environmental Preservation Easements.

- **The other specific criteria would establish bulk regulations for a setback from property lines and maximum structure height, establish a specific landscape buffer requirement and the security fence location relative to that buffer, and set operational and removal requirements.**

The new definitions are necessary for the terms used within the criteria because the Zoning Regulations currently do not refer to the concept of solar energy in any way.

- **The complete proposed amendment text is attached to this Technical Staff Report as Attachment A (Petitioner’s Proposed Text).**

II. EXISTING REGULATIONS

- **As noted, the current Zoning Regulations do not address Commercial Solar Facilities or the concept of solar energy in any way, either as a permitted use, a Conditional Use, or as an accessory use, and we have no zoning requirements specifically related to the appropriate design or buffering of such facilities.**

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

The proposed new definitions could be applicable in any zoning district in the County if in the future amendments are adopted to allow solar facilities and/or solar collectors as permitted uses or accessory uses. The amendment to Section 131.N would only be applicable in the RC and RR Districts, and then only for those properties that comply with the minimum parcel size and the prohibition for such a use on Agricultural Land Preservation Easement properties and properties with Environmental Preservation Easements.

B. Agency Comments

Comments from all applicable agencies have not yet been received. Any substantive comments received from these agencies before the Planning Board Public Hearing will be forwarded to the Planning Board members before the hearing date.

IV. EVALUATIONS AND CONCLUSIONS

- **The proposed amendments would be in direct harmony with *PlanHOWARD 2030* (the “General Plan”) Policy 5.3, which is to “Promote future energy and green industries.”**
- **The proposed amendments are in general harmony with the overall intentions behind General Plan Policy 4.12, which are to “Develop an energy plan that prepares for different future energy scenarios, examines options for various kinds of future energy sustainability, promotes conservation and renewable resources, and sets targets to reduce greenhouse gases.”**
- **There is public benefit to increasing potential opportunities to construct commercial solar facilities in terms of increased health benefits to Howard County residents. Construction of clean, renewable energy sources within the county will help to keep air, water, and other environmental resources within Howard County clean and safe for county residents.**
- **The Petitioner’s proposed text for Section 131.N.59.A.3 and Section 131.N.59.A.4 does not require the Commercial Solar Facility to adhere to the bulk requirements of the applicable zoning district. The text proposed by the Department of Planning and Zoning for Section 131.N.59.A.3 and Section 131.N.59.A.4 requires that in addition to setback and height requirements outlined in these sections, Commercial Solar Facilities must also adhere to the bulk requirements of the applicable zoning district.**

IV. EVALUATIONS AND CONCLUSIONS

It is important that Commercial Solar Facilities adhere to the bulk requirements of the applicable zoning district because the interests of all members in the community were considered when drafting and approving standards for those bulk requirements. Therefore, in an effort to preserve the best interests of the community, compliance with the bulk regulations for the applicable zoning district should be added to this Zoning Regulation Amendment.

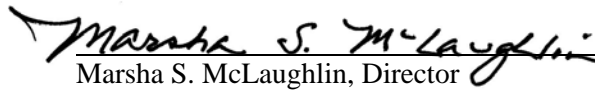
- **The Petitioner's proposed text for Section 131.N.59.A.3 requires a 50 foot setback from all property lines. However, the Department of Planning and Zoning recommends that a 75 foot setback from all property lines be observed due to the rural nature of the RC and RR zoning districts. Observing a 75 foot setback from all lot lines is not burdensome because of the large lot size requirement for this use.**
- **The Petitioner's proposed text for Section 131.N.59.A.6 requires that all security fencing be located between the landscaping buffer and the commercial solar facility, but it does not require all security fencing to be out of view of neighboring properties. The text proposed by the Department of Planning and Zoning for Section 131.N.59.A.6 adds that the fence must be out of view of the neighboring properties.**

The reason that a 'Type D' landscaping buffer is required is to keep the Commercial Solar Facility and its accessory structures, including the security fences, out of view from neighboring properties as much as possible.

V. RECOMMENDATION

APPROVAL WITH REVISIONS

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-142 be **APPROVED**, with the revisions noted in Attachment B.

 9/20/12
Marsha S. McLaughlin, Director Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

ZRA 142 - Attachment A

Petitioner's Proposed Text

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]].)

SECTION 103: Definitions

- A. Except as provided for in Section 101 herein, terms used in these regulations shall have the definition provided in any standard dictionary, unless specifically defined below or in any other provision of these regulations:
210. SOLAR FACILITY, COMMERCIAL: A SERIES OF GROUND MOUNTED SOLAR COLLECTORS USED TO GENERATE PHOTOVOLTAIC POWER, WHERE LESS THAN 50% OF THE POWER GENERATED IS CONSUMED BY THE PRINCIPAL USE ON THE SITE.
211. SOLAR COLLECTOR: A DEVICE, STRUCTURE OR A PART OF A DEVICE OR STRUCTURE FOR WHICH THE PRIMARY PURPOSE IS TO TRANSFORM SOLAR RADIANT ENERGY INTO ELECTRICAL ENERGY.

SECTION 131: Conditional Uses

N. **Conditional Uses and Permissible Zoning Districts**

The Hearing Authority may grant conditional uses in the specified districts in accordance with the following minimum criteria.

59. **SOLAR FACILITY, COMMERCIAL**

- A. A CONDITIONAL USE MAY BE GRANTED IN THE RC OR RR ZONING DISTRICTS FOR A COMMERCIAL SOLAR FACILITY, PROVIDED THAT:
- (1) THE LAND ON WHICH THE COMMERCIAL SOLAR FACILITY IS PROPOSED MAY NOT BE IN THE AGRICULTURAL LAND PRESERVATION PROGRAM AND IT MAY NOT BE ENCUMBERED BY ANY ENVIRONMENTAL PRESERVATION EASEMENTS.
 - (2) THE PARCEL ON WHICH THE COMMERCIAL SOLAR FACILITY IS PROPOSED MUST BE A MINIMUM OF 10 ACRES IN SIZE.
 - (3) ALL STRUCTURES AND USES MUST MEET A MINIMUM 50 FOOT SETBACK FROM ALL PROPERTY LINES.
 - (4) NO STRUCTURE OR USE MAY BE MORE THAN 25 FEET IN HEIGHT.
 - (5) A 'TYPE D' LANDSCAPING BUFFER MUST BE PROVIDED AROUND THE PERIMETER OF THE PROPOSED COMMERCIAL SOLAR

FACILITY UNLESS THE HEARING AUTHORITY DETERMINES THAT AN ALTERNATIVE BUFFER IS SUFFICIENT.

- (6) ALL SECURITY FENCING MUST BE LOCATED BETWEEN THE LANDSCAPING BUFFER AND THE COMMERCIAL SOLAR FACILITY.
- (7) THE FACILITY SHALL COMPLY WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAWS AND PROVISIONS.
- (8) A FACILITY THAT IS NO LONGER USED SHALL BE REMOVED FROM THE SITE WITHIN ONE YEAR OF THE DATE THAT THE USE CEASES.
- (9) THE PREMISES SHALL BE MAINTAINED AT ALL TIMES IN A CLEAN AND ORDERLY CONDITION, INCLUDING THE CARE OR REPLACEMENT OF PLANT MATERIALS REQUIRED IN THE LANDSCAPING PLAN. THE RESPONSIBILITY FOR COMPLIANCE WITH THIS PROVISION SHALL BE WITH ALL PARTIES HAVING A LEASE OR OWNERSHIP INTEREST IN THE COMMERCIAL SOLAR FACILITY. THE APPLICANT SHALL PROVIDE THE HEARING AUTHORITY WITH DETAILS REGARDING MAINTENANCE AND ACCESS FOR THE SITE.

ZRA 142 - Attachment B

Department of Planning and Zoning's Proposed Text

(CAPITALS indicate text to be added; [[brackets indicate text to be deleted]]; underlined text indicate additions proposed by the Department of Planning and Zoning.)

SECTION 103: Definitions

- A. Except as provided for in Section 101 herein, terms used in these regulations shall have the definition provided in any standard dictionary, unless specifically defined below or in any other provision of these regulations:
210. SOLAR FACILITY, COMMERCIAL: A SERIES OF GROUND MOUNTED SOLAR COLLECTORS USED TO GENERATE PHOTOVOLTAIC POWER, WHERE LESS THAN 50% OF THE POWER GENERATED IS CONSUMED BY THE PRINCIPAL USE ON THE SITE.
211. SOLAR COLLECTOR: A DEVICE, STRUCTURE OR A PART OF A DEVICE OR STRUCTURE FOR WHICH THE PRIMARY PURPOSE IS TO TRANSFORM SOLAR RADIANT ENERGY INTO ELECTRICAL ENERGY.

SECTION 131: Conditional Uses

N. **Conditional Uses and Permissible Zoning Districts**

The Hearing Authority may grant conditional uses in the specified districts in accordance with the following minimum criteria.

59. **SOLAR FACILITY, COMMERCIAL**

- A. A CONDITIONAL USE MAY BE GRANTED IN THE RC OR RR ZONING DISTRICTS FOR A COMMERCIAL SOLAR FACILITY, PROVIDED THAT:
- (1) THE LAND ON WHICH THE COMMERCIAL SOLAR FACILITY IS PROPOSED MAY NOT BE IN THE AGRICULTURAL LAND PRESERVATION PROGRAM AND IT MAY NOT BE ENCUMBERED BY ANY ENVIRONMENTAL PRESERVATION EASEMENTS.
 - (2) THE PARCEL ON WHICH THE COMMERCIAL SOLAR FACILITY IS PROPOSED MUST BE A MINIMUM OF 10 ACRES IN SIZE.
 - (3) IN ADDITION TO THE BULK REGULATIONS OF THE APPLICABLE ZONING DISTRICT, ALL STRUCTURES AND USES MUST MEET A MINIMUM ~~[[50]]~~ 75 FOOT SETBACK FROM ALL PROPERTY LINES.
 - (4) IN ADDITION TO THE BULK REGULATIONS OF THE APPLICABLE ZONING DISTRICT, NO STRUCTURE OR USE MAY BE MORE THAN 25 FEET IN HEIGHT.

- (5) A 'TYPE D' LANDSCAPING BUFFER MUST BE PROVIDED AROUND THE PERIMETER OF THE PROPOSED COMMERCIAL SOLAR FACILITY UNLESS THE HEARING AUTHORITY DETERMINES THAT AN ALTERNATIVE BUFFER IS SUFFICIENT.
- (6) ALL SECURITY FENCING MUST BE LOCATED BETWEEN THE LANDSCAPING BUFFER AND THE COMMERCIAL SOLAR FACILITY AND OUT OF VIEW OF THE NEIGHBORING PROPERTIES.
- (7) THE SYSTEMS SHALL COMPLY WITH ALL APPLICABLE LOCAL, STATE, AND FEDERAL LAWS AND PROVISIONS.
- (8) A FACILITY THAT IS NO LONGER USED SHALL BE REMOVED FROM THE SITE WITHIN ONE YEAR OF THE DATE THAT THE USE CEASES.
- (9) THE PREMISES SHALL BE MAINTAINED AT ALL TIMES IN A CLEAN AND ORDERLY CONDITION, INCLUDING THE CARE OR REPLACEMENT OF PLANT MATERIALS REQUIRED IN THE LANDSCAPING PLAN. THE RESPONSIBILITY FOR COMPLIANCE WITH THIS PROVISION SHALL BE WITH ALL PARTIES HAVING A LEASE OR OWNERSHIP INTEREST IN THE COMMERCIAL SOLAR FACILITY. THE APPLICANT SHALL PROVIDE THE HEARING AUTHORITY WITH DETAILS REGARDING MAINTENANCE AND ACCESS FOR THE SITE.